



Lamoine Board of Selectmen

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Minutes of May 22, 2014

Chairman Gary McFarland called the meeting to order at 7:50 PM at the Lamoine Consolidated School Gym.

Present were: Selectmen Heather Fowler, Nathan Mason, Bernie Johnson, S. Josephine Cooper, Gary McFarland; Administrative Assistant Stu Marckoon, and approximately 90 people in the audience.

Public Hearing – Petitioned Question to amend Building & Land Use Ordinance –

Gary opened the hearing at 7:50 PM and read the article to be voted upon June 10, 2014. He set out the ground rules for the hearing.

Presentation by Petitioners – David Sanderson said he had an approximately 15-minute power point presentation which was shown on the screen in the gym. He said his group also had a handout of the slides.

Mr. Sanderson said the referendum question arose from a petition signed by 130-voters. He said the group wants to prevent new gravel pits in the Rural and Agricultural Zone – and only new pits. He said some of the petitioners have a common vision for Lamoine. He said the first benefit would be that it would promote and protect the land for residential use, attract more families to town and allow for free movement in town. He said it would preserve the natural beauty and resources of Lamoine. He said it would also promote good business by providing a better property tax stream, and avoid the devaluation of land. He said the question would preserve the separation of everyday lives and the gravel industry.

Carol Korty said the issue is how to balance the resource and the use of the earth with the petitioners' needs. She said the petitioners want to be fair with that. She said there are three zones in Lamoine, and this presentation is similar to the March 27, 2014 presentation at the Planning board hearing. She said the Rural and Agricultural Zone (RAZ) covers nearly the entire town. She read the purpose of the RAZ from the Building and Land Use Ordinance. She said extraction of sand and gravel clearly is not a limited commercial use, but an industrial use. She said some have said that it's time to stop all gravel mining and others say it should continue. She said this question says no new pits in the RAZ.

Ms. Korty said there are about 11,000 acres of land in town, and the gravel contractors own approximately 11% of the acreage, or 1,300 acres which could be mined. She said the goal is not to curtail mining but to prevent the center of town from being hauled off. She said that in 2011 237,000 cubic yards of material was extracted. She said the property tax per acre for paid by the gravel contractors is an average of \$44.00. She said the average tax in town is \$2,300 per acre. She said the gravel land owners own 11% of the acreage but pay 2% of the property taxes and that is disturbing.

Ms. Korty said six companies do open pit mining. She said one of those is a small company and she supports the Fowlers. She said the other five companies have no personal interest in the town. She asked what was to prevent a big company from making an offer you couldn't refuse on a piece of land, and then move in and take all the gravel from it. She asked how that could be prevented from happening and said amending the Building and Land Use Ordinance is the way. She said the proposal would stop new pits. She said the vote will be held on June 10, 2014.

Steve Roiphe asked if it is possible to rezone for a smaller Rural and Agricultural Zone and a larger Development Zone. Ms. Korty said any town can change its zoning. She said Lamoine did not have zones until it adopted the Comprehensive Plan.

Douglas Stewart asked about the property tax comparison and whether the petitioners looked at other unimproved land. Ms. Korty said the \$2,300 figure is an average of all the acreage, not what would be charged per acre. Mr. Stewart said it should be an "apples to apples" comparison. Ms. Korty said the land is taxed at the same rate. Mr. Stewart said the gravel land owners are not getting any break. He said they would have "x" number of pits that could not be expanded. He said the proposal is similar to not allowing any logging to be conducted in Aroostook County.

Jane Fowler asked where the \$2,300 per acre figure came from. Catherine deTuede said it came from Stu. Stu said it did not. Ms. deTuede said there are 994 houses in town and when the total taxes are divided by that, it comes out with an average. She said the figure was to give an idea of how the land could be used. She said the land loses tax value if you can't put a house on it. She said all of the town could be mined, but residential uses are the best and highest value. Mrs. Fowler said she received the group's handout quoting \$2,300 an acre as the average revenue. She said there is no way that is accurate. She said a 4-acre parcel would pay \$10,000 and the figure is way off.

Brett Jones said he disagreed with the idea that gravel pits preclude development. He said there has not been an influx of people looking at house lots. He said he pays about \$400 per year in property taxes on his undeveloped house lots. He said the gravel operators pay a sales tax and the town can only generate revenue from property taxes. He said the petitioners are basing the arguments on envy.

Valerie Sprague said she would have loved to have her son live in Lamoine, but she drove around town and no matter where you went, a gravel pit was nearby. She said she advised him not to buy in Lamoine because his land would not be protected. She said people have to deal with noise. She said there might be some other reason that parcels are being sold. She said she is afraid to retire in Lamoine because the gravel pits move closer and closer. She said there are a lot of other great businesses in Lamoine. She said it's not about the small pit operators; it's about pits coming closer.

Lynn Tscheiller said comparing gravel to trees is an "apples to oranges" comparison. She said the trucks generate sand and holes in the land. She said the gravel operations

generate pollution, including sound, air and water pollution. She gave an anecdote about wells, saying that you can't sell a house without a well.

Kathleen Rybarz presented a story from Belfast when Lane Construction purchased an abutting property. She said they sold their house at a loss and a gravel operation can affect property values in the area. She said one should be careful of companies with deep pockets.

Susan Wuorinen said she had the same situation as Ms. Rybarz about 10-to-12 years ago. She read a poem that she composed in regard to the question.

Steven Roiphe asked that the hearing move on.

Robin Emery said she hears the trucks run by her home. She said she has no issues with those who make a living in town. She said to look at where the campaign signs are located and that those opposed to the referendum question want to protect holes. She said there is a right to be free of dust, fumes and noise and to run on the road, and to protect property values. She said she spoke with a town attorney once about how the do something about the gravel extraction and was advised that the ordinance would have to be changed.

Ms. deTuede said there is a right to protect property values. She said there is a high property tax with a low property value disadvantage in Lamoine. She said the town is next to last in assessed valuation. She said strip mines destroy value and used an example from West Virginia. She said Lamoine has been colonized by the gravel industry. She said it's the core of its economy. She said individual property values are at stake. She said Lamoine has one of the lowest per-capita values in the county. Gerald Jordan said the other towns mentioned have high shorefront valuation. Ms. deTuede asked why Lamoine's valuation is so low compared to Brooklin.

Gerald Jordan said every time there is something about gravel pits the Planning Board tries to do away with them. He asked why nothing is done about clear cutting.

Presentation from opponents – Perry Fowler gave a brief power point presentation. He said restoration is one of the biggest issues that he has heard. He said he's heard about holes in the ground and bad views. He said excavated gravel land can easily be turned into residential land. He said if one looks around the country, towns are buying up gravel land and making lakes to create waterfront homes.

Mr. Fowler said the price for gravel quoted in the handout is the delivered price. He said a lot of people who own pits get only \$1.75 to \$3.00 per yard for stumpage. He said that is a lot different than \$10 to \$15 delivered. He said this is a "Not In My Back Yard" issue. He said it's similar to windmills in other communities. He said instead of saying "no"; why not find a way to do things differently. He said the restoration requirements are not forcing a need for a different approach. He said a gravel pit area could be used for an event center or creating ponds with waterfront property.

Mr. Fowler said removing gravel might actually improve water quality. He said there are lots of other options to look at instead of saying "stop". He said he would like to see some new concepts on restoration and to have the town work together.

Jane Fowler said she had a handout based on town records. She said there are 264.73 permitted gravel acres which are valued at about \$3.5 million dollars. She said gravel pits are assessed at \$15,000/acre. She said if it were not a pit, it would be valued at \$1,500/acre. She said contractors pay a personal property tax of \$85,100/year for their equipment. She gave several other figures which she said corrects other information provided by the question proponents.

Mrs. Fowler said she found an advertisement offering 75-acres for sale as a possible pit in an area that would now be banned from having a new pit. She said she respects the other gravel pit owners, and the issue is about her family, and the Island guys. She said she suspect the projected sale of a potential pit land precipitated the petition.

Mrs. Fowler said people who are buying houses and seeking building permits have never complained about their property valuation being decreased because of the presence of gravel pits. She said one former pit is now a residential subdivision. She said pits can be used for something else. She said the Lamoine General Store is located in a former pit. She said people are not working together. She asked where people want gravel materials to come from. Laurence Lovett replied "Franklin".

Brett Jones said there has been a lot of environmental talk, but it is OK to mine gravel in other towns to bring to Lamoine. He said he is troubled by a xenophobic message that Jay and Perry Fowler are OK to run pits, but not folks from out of town. He said there has been talk about "big gravel". He said people should stop and look at what is really likely to happen. He said the only water problem in town was caused by the former landfill. He said he would like to see some evidence that a water problem is likely to happen.

Irene Laney said she has an aesthetic concern. She said when she drives on Route 3 she can see the hill, and she used to walk on that hill. She said now it is painful to look at. She said it looks like a strip mine. She said her other concern was about groundwater. She asked to see evidence that problems won't happen.

Jay Fowler said he wished to address the water concern. He said 7,500 gallons a minute dump into the ocean from the aquifer outlet at the head of the Jordan River. He said the aquifer starts in Dedham and travels through Hancock. He said the worst potential sources for pollution are from out of town.

Mr. Fowler said a lot of people present this evening do not border a gravel pit. He said the Planning Board gave pit operators 3-years to mine to their 50-foot setback. He said the MacQuinn operation had wanted to start behind the current pit but the Planning Board forced them to do it differently. He said no one on the Planning Board has worked in a pit. He said it's very upsetting to build a good business and see that happen. He said people in Lamoine don't want to get rid of their septic waste and garbage. He said

he has conserved a piece of land in Belfast for 45-years and this makes it seem like he should have hauled it all off. He said all of a sudden there has been an uprising about gravel.

Perry Fowler said most of the concern seems to be about traffic and noise through the center of town. He said that is a concern. He said one option is to petition the state to lower the speed limit and impose a no engine brake policy.

Steve Roiphe said Lamoine has treated people nicely and has since he moved here, but now he's hearing nasty things. He said he is in favor of protecting the rural and agricultural zone. He said he hopes the town doesn't become "mean".

Bob Christie said he respects the Fowler family and the defense of their livelihood. He said he was bothered that none of the other gravel companies are speaking up. He said the other companies do not appear to be stewards of the land and they should be setting the example. He said the currently licensed pits have the option to continue. He said the town is no longer building ships or providing a general store like it did many decades ago. He said this is an adaption situation and no matter what happens, the town will adapt. He said he will vote yes on the question, but he is still a fan of the Fowlers.

Michael Jordan said he would vote no on the question. He said if the town wants to become a residential zone, a blanket stoppage of gravel pits is the wrong way to go about it. He said the Comprehensive Plan says that gravel mining shall take place in the RAZ. He said he would guarantee there would be lawsuits in this measure passes. He said landowners would have a right to sue because they cannot do what they wish to do. He said every permit issued is considered a "New" permit. He said there is no longer site plan review for pits. He said he predicted the Planning Board will say the pits have to shut down.

Mr. Jordan said it is easier to say where you want something as opposed to where you don't want things. He said this would shut down the pits and shut down all building activity. He said if the previous gravel ordinance had not been changed, the hill at the MacQuinn pit would not have been cut down. He said no one knows what the rules will be in the future. He said gravel pits do not ruin the land, they just change it.

Mr. Jordan said there has not been a single proven water quality problem in Lamoine, Maine or the nation because of gravel removal. He said removing gravel doesn't hurt water. He said restoration is what happens on the land. He said there is zero water pollution. He said the landfill does not appear to be affecting the water. He said boats operating on the water supply lake in Ellsworth are not polluting the city's drinking water. He said the end product must be done correctly. He said pits could end up with trees, become farmland, or even become a subdivision. He said the Goodwin pit has grown just 8-acres in size over about a 30-year period. He said it is just going lower. He said restoration is the key.

Michael Keene, a gravel pit owner, asked where people thought the gravel came from. He told a brief story about a gravel sale he made. He said you can turn a gravel pit into

house lots. He said no one appears to want to buy his pit, but they are willing to tell him what to do with his own land. He showed a map that depicted the increased setbacks imposed by the Gravel Ordinance and said it made his land nearly useless.

Mr. Keene said people have a lot of audacity to say get gravel from another town. He said the regulations are killing him and Jay Fowler will be next. He asked why the town doesn't buy the land that it doesn't want him to use. He said it seems hypocritical. He said it doesn't seem right to not allow any more pits. He asked what people were doing moving to Lamoine if they don't want gravel pits.

Sarah Heyman asked where the story was about restoring gravel pits. She asked how things get back to their natural shape. She asked how a hill is replaced.

Jay Fowler said restoration is controlled by the Planning Board. He said to receive a gravel permit, an applicant has to show the restoration work done. He said if the gravel operators don't reclaim land, they should not get a permit. He said you can't make a hill a hill again, but it would be a lot safer for airplanes using the airport in Trenton if Cousins' hill was lower. He said the gravel pit operators put in fueling pads years ago. He said no other business is told what days and hours they can operate. He said wood cutters operate 24-hours a day. He said they restore their pit as they go along and that restoration is being done.

Valerie Sprague said it was brought up at the gravel work group that restoration could be anything. She said people are looking for more restoration.

Gerard Carriere asked where the RF Jordan pit stands and if it is restored. Gary McFarland said it appears to be used for storage by the owners. He said there is no excavation going on. Michael Jordan clarified the use. He said it is not permitted as a pit, and that RF Jordan was actually raising the former pit's floor and filling in material close to the road.

Bob Christie asked if there was anything in the RF Jordan pit that violates the rules. Mr. Jordan said the material brought in has to be inert. Mr. Christie asked who was checking. Mr. Jordan says he sees what goes in. He said he received a couple of complaints, but it was OK according to the DEP.

Ms. Kory said the history of the Jordan pit was to build the airport during World War II through the Army Corps of Engineers.

Gary closed the hearing at 9:45 PM. He said the board would continue to receive written statements.

Minutes – May 8, 2014 – Jo moved to approve the minutes as written. Nathan 2nd.
Vote in favor was 4-0.

Expenditure Warrant 22 – Selectmen signed expenditure warrant 22 in the amount of \$23,116.74.

Cash & Budget Reports – There were no questions regarding the written reports.

Port Security Grant – Stu reported that he had abandoned the effort to apply for a port security grant for a new rescue boat due to the complexity of the grant application and the required 25% match for which there was not enough money at this time.

Freedom of Access Act Issues – Gary said there was a concern about the Planning Board sending e-mail amongst members. Jo said all town board must be careful. Nathan asked if there was a request to do something. Stu asked if the board wished to have him conduct a training session. Heather said the recent Maine Municipal Association workshop she attended was very good. Stu said he could try to set one up.

Notices of Violation – While CEO Mike Jordan was discussing another matter with a citizen outside the meeting room, Stu reported that the notices of violation to several gravel permit holders were reissued.

Flood Maps – Stu reported that he and CEO Jordan had sent several labeling corrections to FEMA from the draft flood maps.

Planning Board Review – CEO Job Performance – Gary said the Selectmen conduct the personnel reviews and doesn't recalling getting input from other boards. Jo said it might be helpful to review the job description. Heather said the various bodies might want to have some input. Jo said there ought to be a protocol. Nathan said the Planning Board can always bring issues to the Selectmen. Bernie asked if this ought to be reviewed with the Planning Board. Heather said the Selectmen could just request a submission from the Planning Board.

Stu noted that he performs numerous functions for just about every appointed board and wondered if there should be input into his performance from all the board. Nathan said a request for input is fine and it can be submitted to the Selectmen at any time. Stu asked if the Selectmen wished that to be communicated to the Planning Board. Gary said yes.

Water Testing – Stu reported the results were back from water testing on three wells and there were no surprises.

Traffic Light – Route 204/3 – Stu reported there will be a public hearing on June 3, 2014 at 6PM at the Trenton Town Office regarding the proposed light. He said Trenton was concerned that they would be responsible for maintaining the light for the Maine Department of Transportation. He said Trenton had little interest in the light which is of more benefit to Lamoine. He said perhaps some sort of partnership with Trenton might be in order, though he felt MDOT would be best suited to maintain lights on state roads – especially those not located in Lamoine. He urged folks to attend the hearing.

Nomination to MMA Legislative Policy Committee – There were no nominations offered.

Lane Construction – Paving Contract – Jo moved to sign the contract with Lane Construction. Nathan 2nd. **Vote in favor was 5-0, Gary signed the contract.**

Hodgkins Scholarship Sub Committee Meeting – Heather, Nathan and Bernie set the meeting to review scholarship applications for June 9, 2014 at 6:30 PM at the Lamoine Town Hall.

Thank-You Letters – Selectmen signed a thank-you letter to Girl Scout Troop 796 for placing flags at veterans' graves at the two largest cemeteries and to Cynthia Donaldson for maintaining the garden at the south side flagpole at the town office. Stu said someone did a very nice job weeding and mulching the front garden boxes at the town hall, but he has no idea who did it. He offered a public thank-you.

Next Meetings – The next regular meetings will be on June 12 and 26.

There being no further business, the meeting adjourned at 10:08 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst. to the Selectmen